

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MELISSA MCFADDEN

Plaintiff

vs.

**DELBERT SERVICES
CORPORATION
&
CASHCALL, INC.**

Defendants

Case Number

CIVIL COMPLAINT

JURY TRIAL DEMANDED

COMPLAINT AND JURY DEMAND

COMES NOW, Plaintiff, Melissa McFadden, by and through her undersigned counsel, Bruce K. Warren, Esquire and Brent F. Vullings, Esquire of Warren & Vullings, LLP, complaining of Defendants, and respectfully avers as follows:

I. INTRODUCTORY STATEMENT

1. Plaintiff, Melissa McFadden, is an adult natural person and brings this action for actual and statutory damages and other relief against the Defendants for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq, which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

II. JURISDICTION

2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1337.

3. Venue in this District is proper in that the Plaintiff resides here and the Defendants transact business here.

III. PARTIES

4. Plaintiff, Melissa McFadden, is an adult natural person residing at 5 Sheffield Road, Hamilton Square, NJ 08619. At all times material and relevant hereto, Plaintiff is a “consumer” as defined by the FDCPA, 15 U.S.C. § 1692a (2).

5. Defendant, Delbert Services Corporation (“Defendant”), at all times relevant hereto, is and was a Corporation engaged in the business of collecting debt within the State of New Jersey with a primary office located at 7125 Pollock Drive, Las Vegas, NV 89119.

6. Defendant, CashCall, Inc. (“Defendant”), at all times relevant hereto, is and was a Corporation that regularly issues personal loans in the State of New Jersey, with a primary place of business located at 1600 S. Douglass Road, Anaheim, CA 92806-5948.

7. Defendants are engaged in the collection of debts from consumers using the telephone and mail. Defendants regularly attempt to collect consumer debts alleged to be due to another. Defendants are “debt collectors” as defined by the FDCPA, 15 U.S.C. §1692a(6).

IV. FACTUAL ALLEGATIONS

8. Plaintiff has received a series of harassing and misleading letters from the Defendants regarding an alleged personal loan debt.

9. Plaintiff received two copies of the same document from Defendant, CashCall, Inc., one which was sent to her e-mail on March 16, 2010 and one which she received in the mail days later dated March 17, 2010, both of which were signed by "Richard Stone". See a copy of the documents appended hereto and marked "**EXHIBIT A**".

10. The two pieces of correspondence from Defendant, CashCall, Inc., contain a Mini-Miranda statement, despite the fact that Defendant, CashCall, Inc., is not a collection agency.

11. Plaintiff received a letter from Defendant, Delbert Services Corporation, dated April 22, 2010 which stated that they were attempting to collect a debt owed to Defendant, CashCall, Inc. See a copy of the letter appended hereto and marked "**EXHIBIT B**".

12. The letter dated April 22, 2010 from Defendant, Delbert Services Corporation is signed "Richard Stone, Loan Collector".

13. Plaintiff received a letter from Defendant, Delbert Services Corporation, dated May 7, 2010 which is formatted in the same fashion as the original correspondence from Defendant, CashCall, Inc. See a copy of the letter appended hereto and marked "**EXHIBIT C**".

14. The May 7, 2010 letter from Defendant, Delbert Services Corporation, is once again signed by "Richard Stone".

15. By sending the Plaintiff the May 7, 2010 letter containing a settlement offer, the Defendant, Delbert Services Corporation, does not afford the Plaintiff her full thirty day period to dispute the debt and request validation of the debt.

16. All communication from the Defendants has been signed by "Richard Stone", leaving the Plaintiff unable to identify whether "Richard Stone" is a representative of Defendant, CashCall, Inc. or a representative of Defendant, Delbert Services Corporation.

17. Defendants, CashCall, Inc. and Delbert Services Corporation, by and through their letters, effectively represent themselves as a single entity in an attempt to further coerce the Plaintiff into payment.

18. The Defendants acted in a false, deceptive, misleading and unfair manner when they engaged in conduct the natural consequence of which is to harass, oppress or abuse such person in connection with the collection of a debt.

19. The Defendants knew or should have known that their actions violated the FDCPA. Additionally, the Defendants could have taken the steps necessary to bring their and their agent's actions within compliance of the FDCPA, but neglected to do so and failed to adequately review those actions to insure compliance with the law.

20. At all times pertinent hereto, Defendants were acting by and through their agents, servants and/or employees, who were acting with the scope and course of their employment and under the direct supervision and control of Defendants herein.

21. At all times pertinent hereto, the conduct of the Defendants as well as its agents, servants and/or employees, was malicious, intentional, willful, reckless, negligent and in wanton disregard for federal and state law and the rights of the Plaintiff herein.

22. As a result of the Defendants conduct, Plaintiff has sustained actual damages, including, but not limited to, injury to Plaintiff's reputation, invasion of privacy, damage to Plaintiff's credit, out-of-pocket expenses, physical, emotional and mental pain and anguish and pecuniary loss and she will continue to suffer same for an indefinite time in the future, all to her great detriment and loss.

COUNT I – FDCPA

23. The above paragraphs are hereby incorporated herein by reference.

24. At all times relevant hereto, Defendants were attempting to collect an alleged debt which was incurred by Plaintiff for personal, family or household purposes and is a "debt" as defined by 15 U.S.C. § 1692a(5).

25. The foregoing acts and omissions constitute violations of the FDCPA, including but not limited to, violations of:

- | | |
|---------------|--|
| §§ 1692d: | Any conduct the natural consequence of which is to harass, oppress or abuse any person |
| §§ 1692e: | Any other false, deceptive, or misleading representation or means in connection with the debt collection |
| §§ 1692e(10): | Any false representation or deceptive means to collect a debt or obtain information about a consumer |
| §§ 1692e(14): | Any name other than the true name of the debt collector's business |

§§ 1692f: Any unfair or unconscionable means to collect or
attempt to collect the alleged debt

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the
Defendants, Delbert Services Corporation and CashCall, Inc. for the following:

- a. Actual damages;
- b. Statutory damages pursuant to 15 U.S.C. § 1692k;
- c. Reasonable attorney's fees and litigation expenses, plus costs of suit; and
- d. Such additional and further relief as may be appropriate or that the
interests of justice require.

V. JURY DEMAND

Plaintiff hereby demands a jury trial as to all issues herein.

Respectfully submitted,

WARREN & VULLINGS, LLP

Date: May 24, 2010

BY: /s/ Bruce K. Warren

Bruce K. Warren, Esquire

BY: /s/ Brent F. Vullings

Brent F. Vullings, Esquire

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